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File No. O Drugs/43

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Legal **DEPARTMENT**

A **BRANCH**

Subject:—

Opinions under the Drugs Act 1940

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L.D.R.I.NO. 11535
Date 11/12/1943.

Submitted.

2. In order that it may be possible to enforce the provisions of the Drugs Act, 1940, in this Province, two Assistant Chemists (Inspectors) were appointed in the Department of Pharmacology at the Haffkine Institute, Bombay, on probation for two years. One of the selected candidates declined to join the service as the post offered was , in the first instance temporary. The Director of the Haffkine Institute and the Surgeon General recommend that the said two posts may be made permanent. They also suggest to appoint a Govt. Analyst under section 20 of theDrugs Act.

The questions raised for R.L.A.'s consideration are:-

(i) Whether the appointment of the Inspectors under the Act can be made, on a permanent basis, before their qualifications are prescribed in the rules under the Drugs Act (whichXX are still to be made) and,

(ii) Whether under section 20 of the Drugs Act, the Govt. Analyst can be appointed without bringing Chap.IV of the Drugs Act into force in the Province.

3.(i). Rules 48 and 43 of the Draft Drug Rules which lay down the qualifications of Inspectors and the Govt. Analyst, have a proviso which says that for a period of 4 years from thedate on which Ch. IV of the Act takes effect in the Province, the appoint authority can appoint any one who, in its opinion, is competent to discharge the duties of the post . The Draft Rules thus provide for appointments for theperiof during which the rules can be made final. It seems , therefore , that the appointments to be made under the Act are only to be on a temporary basis tillthe requisite qualifications for the posts are finally prescribed by the Rules It would be rather awkard if he incumbents of the posts ,already appointed on a permanent basis, do not posse ss the qualifications as may be laid down in the Rules . It would be proper perhaps if the appointments are made on a temporary basis.

(11) Section 20 of the Drugs Act empowers the Provincial Government to appoint, by notification in theOfficial Gazette, such persons as it thinks fit, having the prescribed qualifications, to be Government Analysts. This section is one of thesections included in Ch.IV of the Act. Section (3) of the Act, provides, inter alia, that Chap.IV shall take effect in a particular Province only from such date as the Provincial Government may, by notification, appoint in this Behalf. Until enabling section 20 which confers power on the Provincial Government to appoint the Analyst has been brought into operation, the Provincial Government will have no authority to made any such appointment. This condition is indirectly observed with reference to appointments of the two Inspectors (who are at present appointed under section 21 of the Act). They are at present appointed as Asstt. Chemists. They will have to be similarly notified as Inspectors when the Drugs Act, 1940 , is enforces in this Province.

Sd/-S.A.Vora
21/12/43.

Office of the R.L.A.

Under sections 20 and 21 of the Drugs Act, 1940, the Provincial Government has power to a ppoint such persons as it thinks fit, Having the prescribed qualifications. to be Government Analysts and Inspectors. "Prescribed" means prescribed by rule made under Chapter IV by the Provincial Government. Section3(e). Section 33 empowers the Provincial Government to frame rules prescribing the qualifications and duties of Government Analysts and the qualifications of Inspectors. Sections 20, 21 and 33 are in Chapter IV . This Chapter does not appear to have been brought into force in thePrvince of Bombay. Government Analysts and Inspectors cannot, therefore, be appointed unless the Chapter is broughr into force and rules prescribing their qualifications are framed by the Provincial Government.

Sd/-P.N.M.
Remembrancer of Legal Affairs.

H.R. to G.D., 9508, dated the 29th December 1943.

True copy- Original papers being of bad quality- Destroyed" .

Sd/-

Superintendent,
D.Branch Legal Department.